Basic information

1998/0206(CNS) CNS - Consultation procedure Directive	Procedure completed
EAGGF, agricultural levies, custom duties, VAT, excise duties: recovery of claims (amend. direct. 76/308/EEC) **Subject** 2.10.01 Customs union, tax and duty-free, Community transit 2.70.02 Indirect taxation, VAT, excise duties 3.10.13 European Agricultural Guidance and Guarantee Fund, EAGGF and EAGF	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	GARRIGA POLLEDO Salvador (PPE-DE)	13/10/1999

Former committee responsible	Former rapporteur	Appointed
CONT Budgetary Control	BARDONG Otto (PPE)	21/07/1998

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	WALLIS Diana (ELDR)	17/10/2000

Former committee for opinion	Former rapporteur for opinion	Appointed
AGRI Agriculture and Rural Development	The committee decided not to give an opinion.	
ECON Economic and Monetary Affairs, Industrial Policy	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2358	2001-06-15
Economic and Financial Affairs ECOFIN	2326	2001-01-19

Key events

Date	Event	Reference	Summary
25/06/1998	Legislative proposal published	COM(1998)0364	Summary
13/07/1998	Committee referral announced in Parliament		
19/01/1999	Vote in committee		Summary
19/01/1999	Committee report tabled for plenary, 1st reading/single reading	A4-0009/1999	
12/02/1999	Debate in Parliament		
07/05/1999	Modified legislative proposal published	COM(1999)0183	Summary
17/01/2001	Formal reconsultation of Parliament		
17/01/2001	Amended legislative proposal for reconsultation published	N5-0019/2001	
25/04/2001	Vote in committee		Summary
25/04/2001	Committee report tabled for plenary, reconsultation	A5-0139/2001	
16/05/2001	Decision by Parliament	T5-0256/2001	Summary
15/06/2001	Act adopted by Council after consultation of Parliament		
15/06/2001	End of procedure in Parliament		
28/06/2001	Final act published in Official Journal		

Technical information

Procedure reference	1998/0206(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0009/1999 OJ C 150 28.05.1999, p. 0003	19/01/1999	
Text adopted by Parliament, 1st reading/single reading		T4-0125/1999 OJ C 150 28.05.1999, p. 0612-0623	12/02/1999	Summary
Committee final report tabled for plenary, reconsultation		A5-0139/2001	25/04/2001	
Text adopted by Parliament after reconsultation		T5-0256/2001 OJ C 034 07.02.2002, p. 0164-0207 E	16/05/2001	Summary

Council of the EU

Document type	Reference	Date	Summary
Amended legislative proposal for reconsultation	N5-0019/2001	17/01/2001	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1998)0364 OJ C 269 28.08.1998, p. 0016	25/06/1998	Summary
Modified legislative proposal	COM(1999)0183 OJ C 179 24.06.1999, p. 0006	07/05/1999	Summary
Follow-up document	COM(2006)0043	08/02/2006	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0062/1999 OJ C 101 12.04.1999, p. 0026	27/01/1999	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2001/0044
OJ L 175 28.06.2001, p. 0017 Summary

EAGGF, agricultural levies, custom duties, VAT, excise duties: recovery of claims (amend. direct. 76/308/EEC)

1998/0206(CNS) - 15/06/2001 - Final act

PURPOSE: to improve the mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the EAGGF and on agricultural levies and customs duties and in respect of value added tax and certain excise duties. COMMUNITY MEASURE: Council Directive 2001/44/EC amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the EAGGF and of agricultural levies and customs duties and in respect of value added tax and certain excise duties. CONTENT: this Directive shall apply to claims relating to, refunds, interventions, other measures forming part of the system of total or partial financing of the EAGGF, including sums to be collected in connection with the following actions: levies and other duties in the sugar sector; import and export duties; value added tax; excise duties; taxes on income and capital; taxes on insurance premiums and interest, administrative penalties and fines. The applicant authority may not make a request for recovery unless the claim and/or the instrument permitting its enforcement are not contested in the Member State in which it is situated, except in cases where the second paragraph of Article 12(2) is applied. The request for recovery shall indicate specific information, for example, the name, address and any other relevant information relating to the identification of the person concerned and/or to the third

party holding his or her assets. The instrument permitting enforcement of the claim shall be directly recognised and automatically treated as an instrument permitting enforcement of a claim of the Member State in which the requested authority is situated. Within three months of the date of receipt of request for recovery, Member States shall endeavour to complete such acceptance, recognition, supplementing or replacement, except in certain cases. They may not be refused if the instrument permitting enforcement is properly drawn up. The requested authority shall inform the applicant authority of the grounds for exceeding the period of three months. Claims shall be recovered in the currency of the Member State in which the requested authority is situated. Several other provisions relate to the granting of assistance by the requested authority. The Commission shall be assisted by a recovery committee composed of representatives of the Member States and chaired by the representative of the Commission. ENTRY INTO FORCE: 10.07.2001 DATE OF TRANSPOSITION: 30.06.2002.

EAGGF, agricultural levies, custom duties, VAT, excise duties: recovery of claims (amend. direct. 76/308/EEC)

1998/0206(CNS) - 25/06/1998 - Legislative proposal

PURPOSE : To improve the mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the EAGGF, and of agricultural levies and customs duties and in respect of value added tax and certain excise duties. CONTENT : Mutual assistance in the area of recovery of claims is a complex problem which affects the Community, in the context of the operation of the single market and own resources, the Member States as users of the agreements and the debtors. An integrated strategy is therefore necessary to ensure that the agreements work properly. Three main elements need to be taken into account, according to the Commission : - a modification of the Directive 76/308/EEC concerning mutual assistance in the area of recovery. - supporting administrative measures to be introduced, for VAT and excise duties, in the context of the FISCALIS Programme; - Community legislation harmonising national powers with respect to recovery. The Commission proposes modifying the current provisions on mutual recovery, as laid down in Directive 76/308/EEC, in the following way : - the scope of the mutual assistance set down by the Directive has to be extended to credits relating to certain income and capital taxes, in such a way as to protect the financial interests of the Member States and the neutrality of the single market; - any claim that is subject to recovery has to be treated as a credit of the Member State in which the requested authority is situated; - with a view to encouraging Member States to make use of mutual assistance in the area of recovery, there is a need for clarification, on a case by case basis, of the inherent mutual financial benefits.

EAGGF, agricultural levies, custom duties, VAT, excise duties: recovery of claims (amend. direct. 76/308/EEC)

1998/0206(CNS) - 07/05/1999 - Modified legislative proposal

The Commission's amended proposal takes up the European Parliament's amendments that seek to assert the importance of the Community arrangements for the recovery of claims and boost their effectiveness: - assertion in the recitals that the Member States must cooperate fully in the fight against tax evasion and avoidance so as to safeguard better the competitiveness and fiscal neutrality of the internal market; - clarification of Article 8 of Directive 76/308/EEC with regard to the appeals procedure to be followed when the debtor contests the amount of the claim or the nature of the instrument permitting its enforcement; - assertion in the recitals and in Article 10 of Directive 76/308/EEC that the claims be recovered must be treated in an identical manner to similar claims arising in the Member State in which the requested authority is situated; - replacement in Article 18 of Directive 76/308/EEC of the payment of compensation (calculated as a percentage of the claim to be recovered) with the reimbursement of costs actually incurred. Specific compensation arrangements will furthermore be reserved for cases where recovery poses a specific problem, concerns a very large amount or relates to the fight against organised crime.

EAGGF, agricultural levies, custom duties, VAT, excise duties: recovery of claims (amend. direct. 76/308/EEC)

1998/0206(CNS) - 08/02/2006 - Follow-up document

This report summarises the results of mutual assistance for recovery provided in 2003 and 2004 under new legislation. To recall, EU legislation has been developed in order to offer mutual assistance to the national tax enforcement authorities in cases of tax evasion. As the Commission notes, detecting fraud is one thing. Recovering the taxes and levies due is another, though equally important. This can be problematic due to the fact that debtors may have settled in another Member State or moved their assets abroad. Such a scenario should not constitute an insuperable obstacle to the recovery of tax claims.

In accordance with provisions spelt out in the related Directives the Commission is obliged to prepare regular reports on the implementation of provisions relating to mutual assistance in the field of tax recovery. In preparing these reports; the Commission depends on the input of the Member States, who are expected to forward related data annually to the Commission services. However, several Member States failed to comply with the deadlines set by the Directives. In one case, the Commission even had to refer the matter to the Court of Justice. Those who did submit information did so late. Further, the statistics received contained certain inconsistencies. When the statistics for 2003 were first submitted, the Commission noted significant differences between the figures supplied by each Member State – namely the number of recovery requests received by all the Member States in 2003 amounted to only 70% of recovery requests declared as sent. In 2004, therefore, the Member States were invited to resubmit their statistics. In the rectified figures received by the Commission the divergence between the Member States' data is significantly lower. The total number

of recovery requests received by all Member States in 2003 resulting from the fresh calculation, came to 99% of the number of requests declared as sent. However, for 2004, the difference went up again: recovery requests declared as having been received amounted to 91% of the number of requests declared as sent. The Commission therefore requests the Member States to take more care in establishing their statistics.

In evaluating the actual statistics received, the Commission report notes that the largest number of recovery requests was sent by Germany. According to figures for the amounts for which recovery requests were sent in 2004, Germany requested mutual assistance for 36.14% of the total sums for which requests were made in 2004. In addition, figures supplied by requested states reveal that the German authorities recovered 38.59% of all the amounts recovered by Member States in 2004 at the request of the other Member States. However, the way Member States currently communicate their figures makes it impossible to gauge the impact of mutual assistance for the recovery of each type of tax.

Upon analysing the divergence between recovery requests and results, the report notes that in spite of the enormous increase in the amounts recovered through mutual assistance – 258% up in 2004 compared to the year before – there remains a considerable gap between the amounts for which requests for assistance in recovery are made and the amounts actually recovered.

To conclude, the report makes the following observations:

- Mutual assistance by the national authorities for tax claim recovery is an essential element in the fight against tax fraud.
- Statistics on mutual assistance for recovery relating to 2003 and 2004 show a significant increase in this form of international administrative co-operation.
- There remains, however, a huge gap between the amounts for which assistance is requested and amounts actually recovered through mutual assistance.
- The Commission will make specific proposals to improve mutual assistance in 2007.

Based on these conclusions the following recommendations are being proposed by the Commission:

- Member States should continue using the mechanism for mutual assistance for recovery.
- They should identify what human resources are needed to handle mutual assistance requests expeditiously as recovery chances decrease according to the length of time the claim concerned has existed.
- They should ensure better communication between the applicant authorities and the requested authorities.
- Member States should ensure that the statistics to be supplied are reliable and sent on time.

EAGGF, agricultural levies, custom duties, VAT, excise duties: recovery of claims (amend. direct. 76/308/EEC)

1998/0206(CNS) - 16/05/2001 - Text adopted by Parliament after reconsultation

The European Parliament approved the resolution drafted by Mr Salvador GARRIGA POLLEDO (EPP/ED, E). It maintained its position at first reading relating to a change in the legal base with regard to taking action to the recovery of funds. The Parliament disputes the appropriateness of the new legal basis proposed by the Council. The Parliament insists that Article 95 of the EC Treaty is the appropriate legal basis. Therefore it calls on the Commission to forward its common position to it.

EAGGF, agricultural levies, custom duties, VAT, excise duties: recovery of claims (amend. direct. 76/308/EEC)

1998/0206(CNS) - 12/02/1999 - Text adopted by Parliament, 1st reading/single reading

MEPs voted to adopt the Commission's proposal to strengthen co-operation between Member States designed to combat tax evasion and VAT fraud. The Parliament's Rapporteur was Mr. Otto Bardong (D, EPP). The Parliament's main amendments were as follows : - the Directive should include measures covering both national claims and claims payable to the Community budget, while affirming the latter's precedence when they are in competition with national claims. - Articles 4, 5 and 6 shall apply only to claims not more than five years old (instead of three years in the Commission's proposal). - Where recovery poses a specific problem, concerns a very large amount or relates to the fight against organised crime, the applicant and requested authorities may agree reimbursement arrangements specific to the cases in question.